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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS
LTD. and PEBBLE LIMITED
PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Defendants.

Case No. 3:24-cv-00059-SLG
and consolidated cases

**PLP'S MOTION FOR LEAVE TO FILE OVERLENGTH BRIEF
IN SUPPORT OF SUMMARY JUDGMENT**

Plaintiffs Northern Dynasty Minerals Ltd. (“Northern Dynasty”) and Pebble Limited Partnership (“Pebble Partnership”) (collectively, “PLP”) are filing today their Motion for Summary Judgment that the Veto by defendant Environmental Protection Agency (“EPA”) is unlawful pursuant to the Administrative Procedure Act (“APA”). PLP respectfully asks the Court to permit PLP to submit a brief of 20,000 words, which is double the length that is ordinarily allowed for a summary-judgment brief under Local Rule of Civil Procedure 7.4(a). The grounds for this motion are as follows:

1. This case involves PLP’s proposal to mine copper and other minerals from the Pebble Deposit, one of the largest known undeveloped copper deposits in the world (and the largest in the United States). The Deposit’s copper resource is 76 billion pounds, equivalent to 80% of the U.S. Geological Survey’s reported U.S. reserves. The minerals in the Deposit, including also the gold, silver, molybdenum, and rhenium, are worth nearly \$800 billion at current prices.

2. EPA issued a veto under Clean Water Act section 404(c) that is preventing PLP from moving forward with its proposal, and indeed prevents any mining of the Deposit (the “Veto”). EPA’s purported rationale relates to the Bristol Bay salmon fishery. PLP challenges the Veto under the APA.

3. The ordinary limit for a summary-judgment brief, under the Court’s rules, is 35 pages, or 10,000 words using an appropriate font. Loc. R. Civ. P. 7.4(a). This limit is too short for PLP to effectively address the arguments it needs to present against the Veto.

4. PLP has condensed its brief to present the material as briefly as feasible. For example, the background section spans just over 10 pages, to orient the Court about a multi-

billion-dollar mining proposal that was developed over decades and an administrative decision that is 435 pages long.

5. But the arguments and the law pertinent to PLP's challenge to the Veto are complex and cannot be adequately addressed in 10,000 words. The administrative record for the Veto is over 500,000 pages long. The Veto itself is presented in, as noted, a 435-decision; that decision is accompanied by a Response to Comments that is over 600 pages long. Meanwhile, there are multiple grounds for objection under the APA, including legal limitations that EPA transgressed, statutory misinterpretations on which the Veto depends, and arbitrary and capricious decisions on multiple fronts.

6. Application of the 10,000-word limit would prejudice PLP by forcing it to omit or abandon important arguments. The Motion for Summary Judgment is dispositive, and the Court should be fully informed before deciding the issues.

7. PLP has conferred with the other parties. The other plaintiffs in these consolidated cases consent to this Motion.

8. EPA opposes the Motion. PLP recognizes that EPA would likely need leave for a longer response brief, given that EPA would be responding to a longer brief from PLP as well as briefs from the other plaintiffs. PLP told EPA that PLP would agree to a reasonable expansion of the limit for EPA's brief, upon EPA's proposing what that expansion should be. EPA has not specified or requested a particular expansion, and PLP recognizes that it may wish to wait until it has seen the opening briefs before making that decision. EPA asked if PLP would be willing to consent to an extension of EPA's deadline for its response brief in exchange for consenting to an expansion of PLP's brief. PLP respectfully submits that in the

motion practice over the summary-judgment briefing schedule, before EPA proposed a schedule PLP advised EPA that PLP would be requesting leave for a double-length brief (as it is today moving the Court to allow); and PLP then advised the Court the same, before the Court set the deadline that it ordered for EPA's response.

9. Each group of intervenors has taken no position on this Motion, and reserves the possibility of a response after seeing the Motion filed.

10. The proposed brief for which PLP seeks leave has been filed alongside this Motion. PLP respectfully submits that the brief is cogent and not wasteful of space. The Court has allowed expansions of summary-judgment briefing where the claims “cannot be adequately addressed in a motion that complies with Local Civil Rule 7.4(a).” *Kerr v. Borough of Petersburg*, No. 23-8, 2024 WL 4591184, *5 (D. Alaska Oct. 28, 2024) (allowing 90-page summary-judgment brief).

For these reasons, PLP respectfully asks the Court to permit and accept PLP's opening brief with a length limit of 20,000 words, a limit with which the brief as submitted complies.

October 3, 2025

Respectfully submitted,

/s/ Keith Bradley

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CERTIFICATE OF WORD COUNT

This document follows the type-volume limit of Local Civil Rule 7.4 and contains 755 words, as determined by the word-count function of Microsoft Office 365.

/s/ Keith Bradley
KEITH BRADLEY, *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2025, I filed a true and correct copy of the foregoing document with the Clerk of the Court for the United States District Court of Alaska by using the CM/ECF system. Participants in this Case No. 3:24-cv-00059-SLG who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Keith Bradley
KEITH BRADLEY, *pro hac vice*